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OCT 14 2004

In re Application of
Isabelle Rollat et al.
Application No. 10/693,899
Filed: October 28, 2003
Attorney Docket No. 5725.0912-01

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP

OFFICE OF PETITIONS

DECISION GRANTING PETITION

This is a decision on the petition filed September 16, 2004, requesting that the above-identified application be accorded a filing date of October 28, 2003, with a complete specification as a part of the original disclosure, which is treated under 37 CFR 1.53.

The petition is **GRANTED**.

The application was filed on October 28, 2003. However, on August 25, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because a complete specification in compliance with 35 U.S.C. § 112 and an oath or declaration in compliance with 37 CFR 1.63 were missing.

In response, on September 16, 2004, the present petition was filed, accompanied by, inter alia, 80 pages of specification and a 4 page oath or declaration. Petitioners assert that the above-identified application is a divisional of Application No. 09/886,013 filed June 22, 2001.

A search of the official file reveals that on October 28, 2003, a "Utility Patent Application Transmittal" letter indicated that the application was a divisional of application No. 09/886,013, and that the entire disclosure from the prior application is incorporated by reference.

Based on petitioners' representation that the papers supplied with the petition constitute a copy of the "entire submission" of the present application, and the incorporation by reference statement appearing on the transmittal letter deposited on October 28, 2003, stating that the entire disclosure of Application No. 09/886,013 was incorporated by reference in the present application, it appears that the specification was present in the Office on October 28, 2003, albeit in the file of another application, i.e., Application No. 09/886,013. Therefore, on petition, the application may be accorded the requested

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filing date.

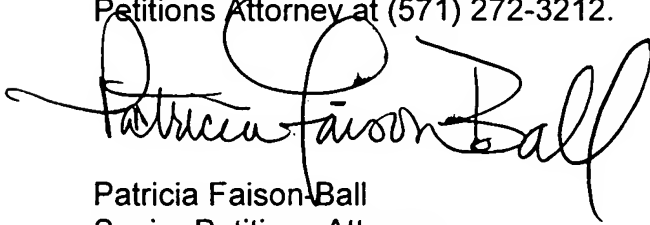
The application will be processed and examined with the 80 pages of specification and 4 page oath or declaration supplied on September 16, 2004, as a part of the original disclosure.

Since the petition was required to accord the requested filing date, the petition fee of \$130.00 will not be refunded.

The primary examiner is expected to compare the specification and oath or declaration supplied on September 16, 2004, to the disclosure of prior application No. 09/886,013 in order to verify that the specification is in fact, a part of the disclosure of the prior application.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to October 28, 2003, using the application papers filed August 27, 2003 and that while the 61 pages of specification and 3 page oath or declaration supplied on February 24, 2004 were not present on filing, they were a part of the original disclosure.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison Ball". The signature is fluid and cursive, with the first name "Patricia" and last name "Ball" being more prominent than the middle name "Faison".

Patricia Faison Ball
Senior Petitions Attorney
Office of Petitions